

June 16, 2023

VIA ECF

The Honorable George C. Hanks Jr.
United States District Judge
United States Courthouse
515 Rusk Street, Room 6206
Houston, Texas 77002

Re: *In re Alta Mesa Resources, Inc. Securities Litigation*, Case No. 19-CV-00957

Dear Judge Hanks:

Defendants submit this letter to seek resolution of the discovery dispute letters filed by Alyeska and Orbis Plaintiffs (the “Direct Action Plaintiffs”) on June 6, 2023 (ECF 339) and by Defendants on June 7, 2023 (ECF 341, 342). Defendants provided a draft of this letter to Direct Action Plaintiffs at 12:05 PM on Thursday, June 15, 2023. Direct Action Plaintiffs did not provide Defendants with a draft of their position. Defendants understand that Direct Action Plaintiffs will file their position separately.¹ The Parties remain at an impasse on (1) Direct Action Plaintiffs’ request to extend the fact discovery deadline and adjourn the noticed depositions of Direct Action Plaintiffs and their current and former employees, and (2) Defendants’ request for a date certain by which Direct Action Plaintiffs serve Rule 26 disclosures, supplement their interrogatory responses, complete their document production, and provide dates to complete depositions of their witnesses before the close of fact discovery at the end of June. The Parties respectfully request a discovery conference this week to resolve these outstanding issues.

I. DEFENDANTS’ POSITION

Direct Action Plaintiffs’ request for an extension of fact discovery and adjournment of the properly noticed depositions was premised on Defendants’ then-pending motions to dismiss, the resolution of which Direct Action Plaintiffs contended “will almost certainly impact the preparation for, and conduct of, those depositions.” ECF 339 at 2. The Court subsequently issued a Memorandum Opinion and Order on June 7, 2023, denying Defendants’ motions to dismiss the Direct Actions “without prejudice to being reasserted as motions for summary judgment. ECF No. 343. On June 8, 2023, Defendants requested an update on Direct Action Plaintiffs’ deficient discovery responses and offered to move the F.R.C.P. 30(b)(6) depositions scheduled for June 13 and 15, 2023 if Direct Action Plaintiffs provided alternative dates before the close of fact discovery. On June 9, 2023, the Direct Action Plaintiffs informed Defendants that they would not produce witnesses for their 30(b)(6) depositions but did not offer any alternative dates (let alone within the fact discovery cutoff). Late on June 12, 2023, on the eve of Alyeska’s deposition, counsel for Direct Action Plaintiffs served for the first time objections and responses to the F.R.C.P. 30(b)(6) deposition notices properly served on April 24, 2023. On June 13, 2023 and June 15, 2023, the Direct Action Plaintiffs failed to appear for their depositions. Late on June 14,

¹ On June 14, 2023, counsel Christian Word and Heather Waller conferred via email and telephone with Matt Peller, counsel for the Direct Action Plaintiffs.

2023, Direct Action Plaintiffs offered dates in July and August² for only certain of their witnesses and for the first time identified their corporate designees. And despite Defendants' further follow up, they have yet to identify a date certain when they will serve their outstanding Rule 26 disclosures and responses to Mr. Hackett's interrogatories, supplement their deficient interrogatory responses to other Defendants, and complete their document productions.

Direct Action Plaintiffs' filing for a protective order does not excuse them from appearing at their properly noticed depositions. *Barnes v. Madison*, 79 F. App'x 691, 707 (5th Cir. 2003) ("[T]he mere act of filing a motion for a protective order does not relieve a party of the duty to appear; the party is obliged to appear until some order of the court excuses attendance."); *King v. Fidelity Nat. Bank of Baton Rouge*, 712 F.2d 188 (5th Cir. 1983) ("[T]he greater error in the Kings' analysis is that a motion to quash must be not only made but granted before the scheduled deposition to excuse compliance."); *Hepperle v. Johnston*, 590 F.2d 609 (5th Cir. 1979) ("The court's inaction on appellant's motion did not relieve him of the duty to appear for his deposition."); *Rangel v. Gonzalez Mascorro*, 274 F.R.D. 585, 592 (S.D. Tex. 2011). Nor does their filing for an extension of the overall fact discovery period excuse Direct Action Plaintiffs from compliance with their obligations under the Federal Rules to serve Rule 26 disclosures, supplement their interrogatory responses, complete their document production, and provide dates to complete depositions of their witnesses before the close of fact discovery at the end of June. Since filing their letter request to extend the discovery schedule and adjourn their noticed depositions, Direct Action Plaintiffs continue to attend every deposition of Defendants and third parties noticed by the Class Plaintiffs and Defendants, while refusing to appear for their own depositions or comply with their written and document discovery obligations. Direct Action Plaintiffs' deliberate strategy to disregard their discovery obligations should be rejected, and Direct Action Plaintiffs should be compelled to comply with the schedule that they agreed to in front of the Court just weeks ago.

Defendants request that the Court deny Direct Action Plaintiffs' request to extend the fact discovery period and order Direct Action Plaintiffs to (i) serve Rule 26 disclosures and supplement and verify their interrogatory responses on or before June 16, 2023, (ii) complete their document production on or before June 16, 2023, and (iii) offer dates by June 16, 2023, that their witnesses are available for depositions to be completed by the end of June.

II. CLASS PLAINTIFFS' POSITION

Lead Plaintiffs continue to take no position regarding the schedule for the individual actions beyond noting that the schedule in those actions should have no bearing on the schedule in the Class action—even if the result is that those actions need to be deconsolidated from the Class action in order to maintain the schedule in the Class action.

² The only date offered for one witness was August 21, which is already beyond the 60 days that Direct Action Plaintiffs seek from the Court in their motion for extension.

Respectfully submitted,

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